

(a) Except for those telecommunications companies that as of January 1, 1995, have a valid certificate of public convenience and necessity previously issued by the commission to provide local exchange services in the state, all telecommunications companies seeking to offer and provide local exchange service shall obtain a certificate of public convenience and necessity from the commission prior to providing that service in this state.

(b) The commission shall grant a concurrent certificate or certificates of public convenience and necessity to provide local exchange service in the service territory of a local exchange company with more than thirty thousand (30,000) access lines in the state if it finds, after notice and opportunity for hearing, that the applicant possesses sufficient technical, financial and managerial resources to provide safe, adequate and reliable local exchange services within the identified geographic area.

(c) Prior to January 1, 2005, in the service territory of a local exchange telecommunications company with thirty thousand (30,000) or fewer access lines in the state, the commission shall, after notice and opportunity for a hearing, issue a concurrent certificate or certificates of public convenience and necessity to provide local exchange service, only if the application clearly shows the applicant is willing and able to provide safe, adequate and reliable local exchange service to all persons within the entire existing local exchange area for which the certification is sought and the incumbent local exchange service provider:

(i) Consents to a concurrent certificate; or

(ii) Is unable or unwilling to provide the local exchange service for which the concurrent certificate is sought; or

(iii) Fails to protest the application for the certificate after notice and opportunity for a hearing; or

(iv) Has applied for and received a concurrent certificate to provide competitive local exchange telecommunications services in any area of this state; or

(v) On or after the effective date of this chapter, begins to provide one-way transmission of radio or video signals through terrestrial, nonsatellite local distribution facilities in an area with existing service.

(d) A local exchange telecommunications company with thirty thousand (30,000) or fewer access lines in the state may apply for an extension of the protections provided for in subsection (c) of this section for a period not to exceed thirty-six (36) months if, after notice and hearing, the commission finds that the applicant has demonstrated by clear and convincing evidence that it has yet to substantially recover its investment for upgraded services ordered by the commission or for which it has committed as of the effective date of this chapter.

Any application for an extension pursuant to this subsection must be made and filed with the commission not later than July 1, 2003.

(e) After January 1, 2005, in the service territory of a local exchange telecommunications company with thirty thousand (30,000) or fewer access lines in the state, other than companies which have been granted an extension of the protections past January 1, 2005 pursuant to subsection (d) of this section, the commission shall, after notice and opportunity for a hearing, issue a concurrent certificate or certificates of public convenience and necessity to provide local exchange service, if the applicant has a sufficient plan under which it will provide service to the entire local exchange area within five (5) years, or a longer time period as determined by the commission, of the date upon which the applicant first begins to provide local exchange service to the area for which the concurrent certificate is sought. Concurrent certificates in the service territory of a company which has been granted an extension pursuant to subsection (d) of this section shall be issued in accordance with the provisions of this subsection after the expiration of the extension.

(f) The competitive protections provided for in subsections (c) through (e) of this section shall only apply to telecommunications companies in existence prior to January 1, 1995, and which at all times relevant to this chapter have fewer than thirty thousand (30,000) access lines in the state.

(g) The use of alternative dialing codes to access interexchange telecommunications services which may allow the completion of calls wholly within a local exchange area on an incidental basis shall be excluded from this section.

(h) Prior to January 1, 2005, no local exchange telecommunications company qualifying for the protections of subsections (c) through (e) of this section shall, after the effective date of this chapter, begin to provide one-way transmission of radio or video signals through terrestrial, nonsatellite local distribution facilities in an area with existing service, unless the company is willing and able to provide safe, adequate and reliable service to all persons within the entire existing local exchange area. After January 1, 2005, a local exchange telecommunications company qualifying for the protections of subsections (c) through (e) of this section may begin to provide one-way transmission of radio or video signals through terrestrial, nonsatellite local distribution facilities in an area with existing service if the local exchange telecommunications company establishes, to the satisfaction of the commission that it has a sufficient plan under which it will provide service to the entire local exchange area within five (5) years, or a longer time period as determined by the commission, of the date upon which the applicant first begins to provide designated radio or video signal services.

37-15-202. Competitive services.

(a) Upon petition by any telecommunications company, the commission may, after notice and opportunity for hearing, find and conclude that a telecommunications service is subject to competition. Any service found to be effectively competitive shall not be subject to regulation of prices by the commission. The commission shall consider only the following factors in determining whether a telecommunications service is subject to effective competition:

(i) The extent to which the same or equivalent telecommunications services are available from alternative providers in the relevant market;

(ii) The extent to which telecommunications services of alternative providers are functionally equivalent or may be substituted at comparable prices, terms and conditions;

(iii) Existing economic, regulatory or technological barriers to entry.

(b) Upon the commission's own motion or the petition of any person, the commission may, after notice and the opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act, find and conclude that a telecommunications service found to be competitive under subsection (a) of this section is no longer subject to competition, and therefore not subject to treatment as a competitive service under this chapter. All hearings conducted pursuant to this subsection shall place the burden of proof upon the commission or the petitioner of establishing that a telecommunications service is no longer subject to competition.

(c) Local exchange services provided by resale, telecommunications services provided by interexchange telecommunications companies, and telecommunications services other than local exchange service, switched access and interexchange telecommunications services provided by a local exchange company shall be considered subject to competition for purpose of regulation under this title.

37-15-203. Price regulation of noncompetitive services.

(a) Prices for telecommunications services which have not been determined by the legislature or the commission to be competitive shall be regulated by the commission in accordance with this section.

(b) The prices of any local exchange company may contain provisions for incentives for improvement of the company's performance or efficiency, lowering of operating costs, control of expenses or improvement and upgrading or modernization of its services or facilities. Any local exchange company may apply to the commission for incentives and innovative or nontraditional price regulation, including price indexing. The commission shall issue a final order approving, modifying or rejecting any application made under this subsection within one hundred eighty (180) days of the filing date of the application with the commission.

If no order is issued by the commission within the one hundred eighty (180) day period, the application shall be deemed approved as filed. If during consideration of an application for regulation under this subsection, the commission materially alters the plan as filed in the application, the applying local exchange company may notify the commission in writing, at any time, but not later than sixty (60) days after any final commission order on the application, that it elects not to be price regulated as approved by the order. The local exchange company's prices shall then be regulated as they were prior to the application until such time as a new application is filed, approved and accepted.

(c) During the transition to total service long-run incremental costs pursuant to W.S. 37-14-402, noncompetitive services prices shall be established in public hearing in accordance with the Wyoming Administrative Procedure Act and other applicable provisions of this chapter.

(d) Any holder of a certificate of public convenience and necessity to provide local exchange service may elect to be regulated by a price index approved by the commission. The price index shall only apply to noncompetitive services offered by the exchange company. The commission may approve indexes which provide additional flexibility for nonessential telecommunications services and nonaccess services.

37-15-204. Price schedules filed with the commission.

(a) A local exchange company shall file with the commission, in such form and detail as the commission may require, schedules showing all competitive and noncompetitive telecommunications services terms, conditions and prices, including prices set by contract, currently in effect and charged to customers by the company in this state. All prices for new noncompetitive telecommunications services, and any change in prices for noncompetitive telecommunications services, shall be filed thirty (30) days prior to the proposed effective date unless a shorter filing period is authorized by the commission. No price increase for a noncompetitive service shall be effective unless the customer has been given notice by the provider at least one (1) full billing cycle prior to the proposed increase. All price changes for competitive services shall be effective as provided for in the company's price schedule. No price or price change is effective until filed in accordance with this section. Prices charged for competitive services shall be in accordance with its price schedule unless a separate contract is negotiated. For purposes of this subsection, the rules, regulations, policies, practices and other requirements relating to services shall be filed with the commission in such form and detail as the commission may require. Rules, regulations, policies, practices and other requirements relating to competitive services shall be subject to the same requirements under this chapter as the prices of competitive services. Those relating to noncompetitive services shall be subject to the same requirements under this chapter as the prices of noncompetitive services.

(b) A local exchange company may by contract or by price schedule provide telecommunications services which are found to be competitive at prices and under terms and conditions that are specific to a particular customer or group of customers. Copies of contracts and price schedules shall be filed with the commission in the same manner as price schedules. Contract prices shall equal or exceed long-run incremental costs. Contracts and price schedules filed under this section shall be given confidential status if requested by the filing party.

(c) Notwithstanding any other provision of this section, price and service changes regarding promotional, time-limited, customer-limited and other minor miscellaneous service offerings shall be filed with the commission ten (10) days prior to the proposed effective date.

(d) Any prices for competitive telecommunications services or prices for telecommunications services which are agreed to as a result of competitive bidding or negotiations, charged by contract and required to be filed with the commission under the provisions of this chapter, shall be afforded confidential and proprietary protection by the commission upon application and a showing of good cause by the company filing the contract.

ARTICLE 3

INTEREXCHANGE COMPANIES

37-15-301. Regulation of interexchange companies.

(a) An interexchange company not authorized to provide intrastate telecommunications service in this state on or before January 1, 1995, shall not provide intrastate interexchange telecommunications services unless it first registers with the commission. An interexchange company authorized by the commission to provide intrastate telecommunications service as of January 1, 1995, is not required to register. The form for registration shall be specified by the commission.

(b) Any interexchange company registered with the commission to provide intrastate telecommunications services shall be authorized to provide statewide services.

(c) Each interexchange company shall maintain on file with the commission a price schedule for each service which shall contain all of the prices, terms and conditions pursuant to which that service is offered. A new or amended price schedule shall be effective when filed or upon the date indicated therein by the company. An interexchange company shall charge prices in accordance with its price schedule unless a separate contract is negotiated.

(d) An interexchange company may by contract provide interexchange telecommunications services at prices and under terms and conditions that are specific to a particular customer or group of customers.

(e) Interexchange companies shall be subject to quality of service regulation as provided in W.S. 37-14-406.

ARTICLE 4

REGULATION OF TELECOMMUNICATIONS SERVICES GENERALLY

37-15-401. Commission powers.

(a) In addition to the powers exercised pursuant to the provisions of W.S. 37-14-408, the commission has the power to:

(i) Investigate the methods and practices of any telecommunications company;

(ii) Require any telecommunications company to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law;

(iii) Make any rules and regulations, in accordance with the Wyoming Administrative Procedure Act, necessary for the commission to carry out its powers in this chapter, including rules objectively established and consistent with commonly accepted industry standards, where applicable standards exist;

(iv) Require reports and studies as to prices and terms and conditions of service, necessary and relevant for the commission's exercise of its authority, including those protected as trade secret or confidential based on legitimate competitive or other operational concerns;

(v) Hold hearings on complaints, or for good cause, upon notice and subject to the provisions of the Wyoming Administrative Procedure Act; and

(vi) Regulate telecommunications companies only as provided for in this chapter.

37-15-402. Cost based pricing.

(a) Services provided by a telecommunications company that provides noncompetitive services shall be priced such that the service's revenues from sale of the service recover the total service long-run incremental cost of providing that service, except as provided for in this section. Total service long-run incremental cost studies used by a telecommunications company shall be filed with the

commission on an annual basis at the time and in the form required by commission rule and under protective order as a trade secret and shall be subject to commission review and approval. Telecommunications companies having fewer than thirty thousand (30,000) access lines in the state are exempt from the requirement to file cost studies on an annual basis, but do remain subject to the commission powers in W.S. 37-14-401(a)(iv). A telecommunications company having fewer than thirty thousand (30,000) access lines in the state may utilize a reasonable total service long-run incremental cost study surrogate, in lieu of conducting its own study, based on cost studies as are available for comparable, including nonregulated, telecommunications companies in this state or other states.

(b) For those existing prices for essential and noncompetitive telecommunications service below the service's total service long-run incremental cost as of the effective date of this act, notwithstanding the provisions of W.S. 37-14-403(a), and to avoid significant one-time price increases to customers, essential and noncompetitive telecommunications service prices which are below total service long-run incremental costs may move over a thirty-six (36) month period to a level, so that at the end of that period the price of each noncompetitive telecommunications service covers its required cost.

(c) A telecommunications company having fewer than thirty thousand (30,000) access lines in the state may, in the interest of preserving essential telecommunications services and subject to the provisions of the universal service fund created under W.S. 37-14-501, or other like compensation, apply to the commission for authority to allow a price for a noncompetitive telecommunications service to remain below that service's total service long-run incremental cost. As of January 1, 2005 this subsection is repealed.

(d) A telecommunications company providing both noncompetitive switched access service and message toll service shall include in the amount recovered from message toll service the price it charges others for those elements of switched access which cannot be economically duplicated by competitors. Nothing in this subsection shall require such inclusion in local exchange areas where a telecommunications company does not also provide switched access service.

37-15-403. Cross-subsidies prohibited; enforcement.

(a) No telecommunications company shall use revenues earned from or allocate expenses to noncompetitive services to subsidize services determined by the commission to be subject to competition. The commission shall not require revenues or expenses from competitive services to be attributed to noncompetitive services. Revenues obtained from noncompetitive telecommunications services may not be used to subsidize competitive services. Revenues from competitive telecommunications services may not be used to subsidize noncompetitive telecommunications services. Nothing in this subsection shall affect the assignment

of any revenues received from the universal service fund for the exclusive support of high cost, local exchange services.

(b) Notwithstanding the provisions of W.S. 37-14-104 the commission may review financial information of a telecommunications company relating to the provision of any services for the purposes of enforcing this section. Information provided to the commission under this subsection shall be provided under confidential and proprietary protection.

(c) Any cost studies filed with the commission pursuant to this section or W.S. 37-14-401(a)(iv) shall be provided confidential and proprietary protection by the commission.

37-15-404. Protection of telecommunications consumers.

(a) No telecommunications company shall unreasonably discriminate as to customers in prices, terms or conditions of service, or in connection to or with other telecommunications companies. Nothing in this chapter shall be construed to prohibit any telecommunications company from:

(i) Providing volume or other price discounts based on reasonable, nonpredatory business practices;

(ii) Passing through any state, municipal or local taxes to the customers in the area where the tax is levied; or

(iii) Furnishing free or reduced price service to its current or pensioned employees and dependent members of their families, as defined in the applicable price schedules on file with the commission.

(b) The commission shall not give unreasonably discriminatory or preferential treatment in its regulation of any telecommunications company.

(c) A telecommunications company providing a noncompetitive telecommunications service shall not discontinue providing the service without the commission's approval.

(d) A telecommunications company shall not:

(i) Fail to disclose in a timely and uniform manner information necessary for the design of equipment and services that will meet the specifications of interconnection;

(ii) Fail or refuse to provide a service or product in accordance with the telecommunications company's tariffs, price lists or contracts and within the commission's applicable rules and orders.

(e) The commission may adopt rules and regulations to provide for:

(i) The interconnection of telecommunications companies' networks at nondiscriminatory and reasonable rates, terms and conditions;

(ii) The effective and efficient interoperability of telecommunications companies' networks;

(iii) The unbundling of services into reasonable basic network features;

(iv) The administration and allocation of phone numbers to the extent technically and economically feasible;

(v) Telephone number portability to the full extent technically feasible; and

(vi) The resale and sharing of services and functions at reasonable and nondiscriminatory rates.

37-15-405. Complaint against prices. Any person, and the commission on its own motion, may complain to the commission concerning the reasonableness of the price of any noncompetitive telecommunications service. Any notice and hearing of any complaint shall be in accordance with the Wyoming Administrative Procedure Act and this chapter. The commission shall only set aside any price it finds after notice and hearing to be unreasonable or unreasonably discriminatory. If the commission sets aside a price as unreasonable or unreasonably discriminatory, the telecommunications company shall have sixty (60) days to file a new price which is reasonable. The company shall refund any charges found to be unreasonable as ordered by the commission. Any price set in compliance with the provisions of W.S. 37-14-402 is presumed to be fair and reasonable, subject to rebuttal by the commission or any party to the hearing.

37-15-406. Quality of service.

(a) Each telecommunications company shall perform a study to determine the reasonable measures of customer service satisfaction and service adequacy for all classifications of noncompetitive and competitive telecommunications services and, no later than September 1, 1995, submit to the commission its proposed service quality standards for those services. These proposals shall be considered in any rulemaking on quality undertaken by the commission pursuant to W.S. 37-14-401(a)(iii).

(b) Any customer, and the commission on its own motion, may complain concerning the quality of service provided by a telecommunications company. A complaint shall be noticed and heard as provided for in the Wyoming

Administrative Procedure Act. The commission, after notice and hearing, may direct the telecommunications company to take whatever remedial action is technically feasible and economically reasonable to provide reasonably adequate service. The commission shall authorize a telecommunications provider to recover the cost of compliance with any commission order under this section.

37-15-407. Annual report.

(a) The commission shall with the input and participation of the telecommunications industry and other relevant state departments, boards and agencies prepare and issue an annual report on the status of the telecommunications industry and Wyoming regulation thereof on January 10 of each year beginning in 1996. Such report shall include:

(i) A review of regulatory decisions and actions from the preceding year and a description of pending cases involving significant telecommunications companies or issues;

(ii) A description of the telecommunications industry or trends therein, including the number, type and size of companies offering telecommunications services, telecommunications technologies in place and under development, variations in the geographic availability of services and in process for services, and penetration levels of subscriber access to local exchange service in each exchange and trends related thereto;

(iii) The status of compliance by carriers and the commission with the requirements of this chapter;

(iv) The effects, and likely effects of Wyoming regulatory policies and practices, including those described in this title, on telecommunications companies, services and customers;

(v) Any recommendations for legislative change which are adopted by the commission and which the commission believes are in the interest of Wyoming telecommunications customers; and

(vi) Any other information or analysis which the commission is required to provide by this title or deems necessary to provide.

(b) The commission's report shall be filed with the legislature, the governor and the state telecommunications council.

37-15-408. Applicability of existing law. W.S. 37-1-104 through 37-1-106, 37-2-102, 37-2-104, 37-2-106 through 37-2-109, 37-2-113, 37-2-115 through 37-2-118, 37-2-124, 37-2-125, 37-2-130, 37-2-203, 37-2-205(a), 37-2-209, 37-2-214 through 37-2-216, 37-2-218, 37-2-301 through 37-2-306, 37-3-114, 37-4-101 through 37-4-104, 37-12-120 through 37-

12-130, 37-12-201, 37-12-202, 37-12-204 through 37-12-209, 37-12-211 through 37-12-213, 37-12-301 through 37-12-304 and 37-13-101 through 37-13-137, inclusive, unless in conflict with other provisions of this chapter, are applicable to telecommunications companies and telecommunication companies shall be considered public utilities for the purposes of those provisions. For purposes of this chapter W.S. 37-3-106(b) and (c) shall apply to telecommunications companies which are rate of return regulated.

37-15-409. Construction with other laws. If the provisions of this chapter conflict with any other statutes, the provisions of this chapter shall control.

37-15-410. Dialing arrangements. Each local exchange company shall, where technically and economically feasible, provide intraLATA "1+" equal access by January 1, 1998. Nothing in this section shall prohibit a local exchange company from voluntarily providing intraLATA "1+" equal access prior to January 1, 1998. If this provision conflicts with federal law, the commission may direct implementation of "1+" equal access in a manner consistent with federal law.

37-15-411. Access charge review. During 1995, the commission shall commence an investigation into the appropriate methodology for calculation of intrastate switched access charges for all Wyoming telephone utilities and the feasibility of implementing a procedure for phasing out intrastate telecommunication subsidies flowing between telephone companies in Wyoming by January 1, 2002.

ARTICLE 5

UNIVERSAL SERVICE FUND

37-15-501. Universal service fund created; contributions; administration.

(a) There is hereby established the universal service fund within the special revenue fund to be administered in accordance with this section. The fund shall be administered by the commission. All telecommunications companies shall contribute to the universal service fund. The dates for contributions to the fund and disbursements from the fund shall be set by the commission, after notice and opportunity for hearing, as necessary to accomplish the objectives of the fund as specified in subsections (c) and (d) of this section. The costs of administering the fund may be included in determining required contributions.

(b) The commission shall after notice and opportunity for hearing, designate the method by which the contributions shall be calculated, collected and distributed in order to achieve the goals set forth in W.S. 37-14-102. The commission shall authorize an additional monthly charge to customers, in the amount specified by the commission, to recover each contributor's required payment to the universal service fund.

(c) The commission shall administer the monies in the universal service fund to assist only those customers of telecommunications companies located in areas of this state with relatively high rates for essential services. The commission, after notice and opportunity for hearing, shall determine a reasonable amount and a fair method of distributing monies. The commission may authorize a credit to customer bills, in the amount specified by the commission, to reflect distributions received by the local exchange company from the universal service fund. The commission shall ensure that the method shall promote the emergence of competition in providing local exchange service.

(d) In accordance with the method of distribution determined by the commission, a telecommunications company shall receive funds under this section to the extent that its local exchange rates, after consideration of any contributions from the federal universal service fund, exceed one hundred thirty percent (130%) of the weighted statewide average local exchange rates.

(e) The operation of the universal service fund may be suspended by the commission, based upon a public interest finding, after notice and an opportunity for a hearing, that the fund is not then serving its intended purpose.

(f) The commission's decisions under this section shall be subject to the provisions of the Wyoming Administrative Procedure Act.